STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced:	**02/23/01**	Bill No:	**AB 904**
Tax:	**Sales and Use**	Author:	**Briggs**
Board Position:		Related Bills:	

BILL SUMMARY

This bill would provide a sales and use tax exemption for the sale and purchase of any thoroughbred horse breeding stock.

ANALYSIS

Current Law

The existing Sales and Use Tax Law imposes a tax on the sale of, or the storage, use, or other consumption in this state of, tangible personal property, unless that property is specifically exempted or excluded by statute. Generally, sales of horses and any other animals are subject to tax to the same extent as any other sales of tangible personal property. However, existing law does provide the following exemptions or exclusions with respect to sales and other types of transfers of animals:

- Section 6010.40 excludes from the computation of sales and use tax any receipts associated with the transfer by a local government animal shelter or a nonprofit animal welfare organization of any animal to an individual for use as a pet.

- Section 6358 provides an exemption for the sale or purchase of any form of animal life the products of which ordinarily constitute food for human consumption (e.g., sales and purchases of cows, bees, and chickens are exempt from tax).

- Section 6366.5 provides an exemption for the sale and purchase of endangered or threatened animal and plant species if both the seller and the purchaser are nonprofit zoological societies.

For purposes of establishing whether a horse is subject to ad valorem property tax or to the race horse in lieu tax, the Board's Property Tax Rule 1046 provides in part that a horse used for breeding purposes means a registered male animal that has serviced three or more registered females for the purpose of producing a racehorse during the two previous calendar years or a registered female animal that has been bred to a registered male for the purpose of producing a racehorse during the two previous calendar years.

Proposed Law

This bill would add Section 6358.5 to the Sales and Use Tax Law to exempt the sale and purchase of any thoroughbred horse breeding stock.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

The bill would become effective immediately, but would become operative on the first day of the calendar quarter commencing more than 90 days after the date the bill is enacted.

Background

Other bills proposing to provide an exemption for thoroughbred horses have been considered in the past. AB 2757 (Wright) of the 1987-88 Legislative Session would have provided an exemption similar to this measure, and would have additionally exempted receipts attributable to stallion services, sales of thoroughbred horses less than two years of age sold to an out-of-state resident that are transported outside California, receipts for boarding and training thoroughbred horses, and the temporary use of thoroughbred horses within this state for purposes of racing, exhibiting, or performing. AB 2679 (Wright) of the 1986-87 session would have created an exemption for the sale and purchase of a thoroughbred horse or an Arabian horse which is used as breeding stock.

COMMENTS

1. **Sponsor and Purpose.** According to the author's office, the sponsor of this measure is the California Thoroughbred Breeders Association. Its purpose is to assist California purchasers who wish to acquire breeding stock without the added expense of tax on their acquisitions.

2. **Except for the sale of a gelding, an argument could be made that virtually all sales of thoroughbred horses were for breeding purposes.** The exemption proposed in this measure would be difficult to administer, because the seller and purchaser could make an argument that all sales of thoroughbred horses qualify for the exemption (with the exception of a gelding). This would place the Board in the difficult position of reviewing subsequent uses of these horses to determine whether the purchaser actually purchased the horse for breeding purposes or for other purposes. For example, would the exemption apply if a horse were used for racing after the date of purchase, but before it was bred?

COST ESTIMATE
Some costs would be incurred in notifying affected taxpayers, answering inquiries, and reviewing claimed exemptions. These costs are expected to be absorbable.

REVENUE ESTIMATE

Background, Methodology, and Assumptions

There are a number of sales conducted annually by only a few organizations: Barretts, American Equine, and the California Thoroughbred Breeders Association. The largest of those organizations is Barretts, an auction company that makes four sales per year. Sales of thoroughbred horses include yearlings, two-year olds, and two-year olds in training. It is assumed that any thoroughbred horse except for geldings could be used as breeding stock. Sales of thoroughbred horses for the year 2000 are comprised of the following:

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Del Mar Yearling Sale	$ 4.1 million
Barretts	
January Sale	$ 2.1 million
March Sales	$17.3 million
May Two-Year-Olds in Training	$ 5.0 million
October Mixed Sales	$ 2.7 million
American Equine	$ 0.8 million
Total	$32.0 million

Revenue Summary

The annual revenue loss from exempting $32 million from the state, local and district sales and use tax is estimated to be as follows:

	Revenue Loss
State 5.00%*	$1.6 million
Local 2.25%	$0.7 million
Transit 0.67%	$0.2 million
Total	$2.5 million

* While the state tax rate is 4.75 percent for calendar year 2001, it is assumed the tax rate will return to 5.0 percent in 2002.

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